

# United States Court of Appeals For the First Circuit

No. 05-1084  
DC No. 04-12017

FRANKIE J. GARNER  
Petitioner - Appellant

v.

LOIS RUSSO, Superintendent, Souza-Baranowski Correctional  
Center  
Respondent - Appellee

FILED IN CLERKS OFFICE  
US COURT OF APPEALS  
FOR THE FIRST CIRCUIT  
2005 MAR -9 P 5:20

## ORDER OF COURT Entered: March 9, 2005

Appellant's Affidavit to Accompany Motion for Leave to Proceed in Forma Pauperis, with attached prison trust account information, is construed as a motion to proceed on appeal in forma pauperis. We transmit the request to the district court for action in the first instance pursuant to Fed. R. App. P. 24(a)(1). Copies of the district court's ruling shall be forwarded to this court. The district court, if it denies the motion, is requested to state its reasons in writing. Fed. R. App. P. 24(a)(2). If defendant-appellant is not granted in forma pauperis status by the district court, he may file a motion to proceed in forma pauperis in this court, provided that he do so in accordance with Fed. R. App. P. 24(a)(5).

By the Court:

Richard Cushing Donovan, Clerk

By: 

Chief Deputy Clerk

Certified copies: Honorable Edward F. Harrington and Mr. William Ruane, Clerk,  
U.S. District Court for the District of Massachusetts

cc: Frankie Garner  
Maura D. McLaughlin, Esq.